

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Clarksburg**

ERIC DRAKE,

Plaintiff,

v.

Civil Action No. 1:20-CV-247
Judge Klee

JOSEPH ROBINETTE BIDEN, JR.,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

The above referenced case is before this Court upon the magistrate judge's recommendation that plaintiff's *pro se* Motion for Nonsuit Without Prejudice of It's Refiling Against Defendant Joseph R. Biden Jr. [Doc. 5] be granted.

This Court is charged with conducting a *de novo* review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. ***Thomas v. Arn***, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. ***United States v. Schronce***, 727 F.2d 91 (4th Cir. 1984), *cert. denied*, 467 U.S. 1208 (1984). No objections have been filed to the magistrate judge's report and recommendation.

A *de novo* review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, the magistrate judge's report and recommendation is **AFFIRMED**, and plaintiff's *pro se* Motion for Nonsuit Without Prejudice of It's Refiling Against Defendant Joseph R. Biden Jr. [**Doc. 5**] is **GRANTED**. This Court further **DIRECTS** the Clerk to **STRIKE** this case from the active docket of this Court.

The *pro se* motion to proceed in forma pauperis [**Dkt. No. 2**] is **DENIED AS MOOT**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* plaintiff.

DATED: September 21, 2021.



THOMAS S. KLEEH
UNITED STATES DISTRICT JUDGE